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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/399,535	03/07/95	JANZEN	E 594V.42-CIP/

QM31/0208
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EXAMINER
JACKSON, G

ART UNIT	PAPER NUMBER
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3731

DATE MAILED:

02/08/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/399,535

Applicant(s)
JANZEN et al

Examiner
Gary Jackson

Group Art Unit
3731



☒ Responsive to communication(s) filed on Dec 12, 1996

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 95-104 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 103 and 104 is/are allowed.

☒ Claim(s) 95-102 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

Gary Jackson
GARY JACKSON
PRIMARY EXAMINER
GROUP 3300
2/4/99

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3731

DETAILED ACTION

This action is a supplemental action to the Letter mailed July 14, 1996 indicating all claims being allowable and a potential interference. After reconsideration the indicated allowability of claim is withdrawn in view of the new grounds of rejection. Therefore rejections based on 35 U.S.C. 112 follow.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(b):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

The specification is objected to under 37 CFR 1.71 because there is no support in the specification for failing to provide adequate written description of the invention. For instance, the recitation, i.e., in claim 95 "plug means for plugging said puncture being disposed at said distal end of said elongated member" (emphasis added).

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2. Claims 95-102 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Independent claims 95 and 102 have recitation unsupported in specification. Claims 96-101 depend from claim 95. See the objection to the specification above. Nowhere in the specification is it disclosed that the plug means is disposed at the distal end of the elongated member. The plug is disposed at the distal end only during the process of inserting the plug into the puncture. Even if the specification did recite this feature, such would be an intermediate step in a process and not initial configuration of the device. Applicant could not leave out the essential configuration of having the plug inserted from the proximal end before it is at the distal end of the shaft. Therefore the recitation is unsupported in the specification.


3. Claims 103-104 are allowable over the art of record.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (703) 308-4302. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Buiz, can be reached on (703) 308-0871. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Gary Jackson
February 4, 1999


GARY JACKSON
PRIMARY EXAMINER
GROUP 3300
2/4/99